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11 ATI Technologies Systems Corp., ATI Research
12 Silicon Valley Inc., and ATI Research, Inc.

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

In re ATI Tech. HDCP Litigation

Case No.: 5:06-CV-01303-JW HRL

Assigned to The Honorable James Ware

STIPULATED PROTECTIVE ORDER
AS AMENDED BY THE COURT

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of
 3 confidential, proprietary, or private information for which special protection from public
 4 disclosure and from use for any purpose other than prosecuting this litigation would be warranted.
 5 Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated
 6 Protective Order (“Order”). The parties acknowledge that this Order does not confer blanket
 7 protections on all disclosures or responses to discovery and that the protection it affords extends
 8 only to the limited information or items that are entitled to confidential treatment under the
 9 applicable legal principles. The parties further acknowledge, as set forth in Section 10 below, that
 10 this Stipulated Protective Order creates no entitlement to file confidential information under seal;
 11 Civil Local Rule 79-5 sets forth the procedures that must be followed and reflects the standards
 12 that will be applied when a party seeks permission from the Court to file material under seal.

13 2. DEFINITIONS

14 2.1 Party: Any party to this action, including all of its officers, directors,
 15 employees, consultants, retained experts, and outside counsel (and their support staff).

16 2.2 Disclosure or Discovery Material: All items or information, regardless of
 17 the medium or manner in which the same was or is generated, stored, or maintained (including,
 18 among other things, testimony, transcripts, or tangible things) that are produced or generated in
 19 disclosures or responses to discovery in this matter.

20 2.3 “Confidential” Information or Items: Information (regardless of how
 21 generated, stored or maintained) or tangible things that qualify for protection under standards
 22 developed under F.R.C.P. 26(c).

23 2.4 Receiving Party: A Party that receives Disclosure or Discovery Material
 24 from a Producing Party.

25 2.5 Producing Party: A Party or non-party that produces Disclosure or
 26 Discovery Material in this action.

27 2.6 Designating Party: A Party or non-party that designates as “Confidential”
 28 information or items produced in disclosures or in responses to discovery in this action.

1 2.7 Protected Material: Any Disclosure or Discovery Material that is
 2 designated as "Confidential."

3 2.8 Outside Counsel: Attorneys who are not employees of a Party but who are
 4 retained to represent or advise a Party in this action.

5 2.9 In-House Counsel: Attorneys who are employees of a Party.

6 2.10 Counsel: Outside Counsel and In-House Counsel, as well as their
 7 respective support staffs.

8 2.11 Expert: A person with specialized knowledge or experience in a matter
 9 pertinent to the litigation who has been retained by a Party or its Counsel to serve as an expert
 10 witness or as a consultant in this action and who is not a past or current employee of a Party or of
 11 a competitor of a Party, and who, at the time of retention, is not anticipated to become an
 12 employee of a Party or a competitor of a Party. This definition includes a professional jury or trial
 13 consultant retained in connection with this litigation.

14 2.12 Professional Vendors: Persons or entities that provide litigation support
 15 services (such as photocopying, videotaping, translating, preparing exhibits or demonstrations, and
 16 organizing, storing, and retrieving data in any form or medium), and their employees and
 17 subcontractors, etc.

18 3. SCOPE

19 The protections conferred by this Stipulation and Order cover not only Protected
 20 Material (as defined above), but also any information copied or extracted therefrom, as well as all
 21 copies, excerpts, summaries, or compilations thereof, plus testimony, conversations, or
 22 presentations by Parties or Counsel to or in court or in other settings that might reveal Protected
 23 Material.

24 4. DURATION

25 Even after the termination of this litigation, the confidentiality obligations imposed
 26 by this Order shall remain in effect until a Designating Party agrees otherwise in writing or a court
 27 order otherwise directs. The court shall retain jurisdiction to enforce the terms of this order for six
 28 months after final termination of the action.

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1 Exercise of Restraint and Care in Designating Material for Protection. Each
 3 Party or non-party that designates information or items for protection under this Order must take
 4 care to limit any such designation to specific material that qualifies under the appropriate
 5 standards. A Designating Party must take care to designate for protection only those parts of
 6 material, documents, items, or oral or written communications that qualify -- so that other portions
 7 of the material, documents, items, or communications for which protection is not warranted are
 8 not swept unjustifiably within the ambit of this Order.

9 Mass, indiscriminate designations are prohibited. Designations that are shown to
 10 be clearly unjustified, or that have been made for an improper purpose (e.g., to unnecessarily
 11 encumber or retard the case development process, or to impose unnecessary expenses and burdens
 12 on other parties, among other like things or actions) are prohibited.

13 If it comes to a Party's or a non-party's attention that information or items that it
 14 designated for protection do not qualify for protection after all, that Party or non-party must
 15 promptly notify all other parties that it is withdrawing the mistaken designation.

16 5.2 Manner and Timing of Designations. Except as otherwise provided in this
 17 Order, or as otherwise stipulated or ordered, material that qualifies for protection under this Order
 18 must be clearly so designated by the Designating Party before the material is disclosed or
 19 produced, if the Designating Party is the Party or non-party disclosing or producing the material as
 20 to which protection is sought.

21 To the extent any Party or non-party wishes to designate as "Confidential"
 22 Disclosure or Discovery Material that it did not itself disclose or produce, such designation shall
 23 be made promptly after the disclosure or production of such material.

24 Designation in conformity with this Order requires:

25 (a) for information in documentary form (apart from transcripts of
 26 depositions or other pretrial or trial proceedings), that the Producing Party affix the legend
 27 "CONFIDENTIAL" at the top or bottom of each page that contains Protected Material. If only a
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1 portion or portions of the material on a page qualifies for protection, the Producing Party also must
 2 clearly identify the protected portion(s) (e.g., by making appropriate markings in the margins).

3 A Party or non-party that makes original documents or materials available
 4 for inspection need not designate them for protection until after the inspecting Party has indicated
 5 which material it would like copied and produced. During the inspection and before the
 6 designation, all of the material made available for inspection shall be deemed "Confidential."
 7 After the inspecting Party has identified the documents it wants copied and produced, the
 8 Producing Party must determine which documents, or portions thereof, qualify for protection
 9 under this Order, then, before producing the specified documents, the Producing Party must affix
 10 the legend "CONFIDENTIAL" at the top or bottom of each page that contains Protected Material.
 11 If only a portion or portions of the material on a page qualifies for protection, the Producing Party
 12 also must clearly identify the protected portion(s) (e.g., by making appropriate markings in the
 13 margins).

14 (b) for testimony given in deposition or in other pretrial or trial
 15 proceedings, that the Party or non-party offering or sponsoring the testimony identify on the
 16 record, before the close of the deposition, hearing, or other proceeding, all testimony to be
 17 protected. When it is impractical to identify separately each portion of testimony that is entitled to
 18 protection, and when it appears that substantial portions of the testimony may qualify for
 19 protection, the Party or non-party that sponsors, offers, or gives the testimony may invoke on the
 20 record (before the deposition or proceeding is concluded) a right to have up to 30 days to identify
 21 the specific portions of the testimony as to which protection is sought. Only those portions of the
 22 testimony that are appropriately designated for protection within the 30 days shall be covered by
 23 the provisions of this Stipulated Protective Order.

24 Transcript pages containing Protected Material must be separately bound by
 25 the court reporter, who must affix to the top of each such page the legend "CONFIDENTIAL," as
 26 instructed by the Party or non-party offering or sponsoring the witness or presenting the testimony.

27 (c) for information produced in some form other than documentary, and
 28 for any other tangible items, that the Producing Party affix in a prominent place on the exterior of

1 the container or containers in which the information or item is stored the legend
 2 "CONFIDENTIAL." If only portions of the information or item warrant protection, the Producing
 3 Party, to the extent practicable, shall identify the protected portions.

4 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure
 5 to designate qualified information or items as "Confidential" does not, standing alone, waive the
 6 Designating Party's right to secure protection under this Order for such material. If material is
 7 appropriately designated as "Confidential" after the material was initially produced, the Receiving
 8 Party, on timely notification of the designation, must make reasonable efforts to assure that the
 9 material is treated in accordance with the provisions of this Order.

10 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

11 6.1 Timing of Challenges. Unless a prompt challenge to a Designating Party's
 12 confidentiality designation is necessary to avoid foreseeable substantial unfairness, unnecessary
 13 economic burdens, or a later significant disruption or delay of the litigation, a Party does not
 14 waive its right to challenge a confidentiality designation by electing not to mount a challenge
 15 promptly after the original designation is disclosed.

16 6.2 Meet and Confer. A Party that elects to initiate a challenge to a Designating
 17 Party's confidentiality designation must do so in good faith and must begin the process by
 18 conferring directly (in voice to voice dialogue; other forms of communication are not sufficient)
 19 with Counsel for the Designating Party. Such challenges must be made on a document by
 20 document basis. In so conferring, the challenging Party must explain the basis for its belief that
 21 the confidentiality designation was not proper and must give the Designating Party an opportunity
 22 to review the designated material, to reconsider the circumstances, and, if no change in
 23 designation is offered, to explain the basis for the chosen designation. A challenging Party may
 24 proceed to the next stage of the challenge process only if it has engaged in this meet and confer
 25 process first.

26 6.3 Judicial Intervention. A Party that elects to press a challenge to a
 27 confidentiality designation after considering the justification offered by the Designating Party may
 28 file and serve a motion under Civil Local Rule 7, and in compliance with Civil Local Rule 79-5 if

1 applicable, that identifies the challenged material and sets forth in detail the basis for the
 2 challenge. Each such motion must be accompanied by a competent declaration that affirms that
 3 the movant has complied with the meet and confer requirements imposed in the preceding
 4 paragraph and that sets forth with specificity the justification for the confidentiality designation
 5 that was given by the Designating Party in the meet and confer dialogue.

6 The burden of persuasion in any such challenge proceeding shall be on the
 7 Designating Party. Until the Court rules on the challenge, all Parties shall continue to afford the
 8 material in question such protection as is consistent with the Designating Party's designation.

9 7. ACCESS TO AND USE OF PROTECTED MATERIAL

10 7.1 Basic Principles. A Receiving Party may use Protected Material that is
 11 disclosed or produced by another Party or by a non-party in connection with this case only for
 12 prosecuting, defending, or attempting to settle this litigation. Such Protected Material may be
 13 disclosed only to the categories of persons and under the conditions described in this Order. When
 14 the litigation has been terminated, a Receiving Party must comply with the provisions set forth
 15 infra for return or destruction of the Protected Materials.

16 Protected Material must be stored and maintained by a Receiving Party at a
 17 location and in a secure manner that ensures that access is limited to the persons authorized under
 18 this Order.

19 7.2 Disclosure of "Confidential" Information or Items. Unless otherwise
 20 ordered by the court or permitted in writing by the Designating Party, a Receiving Party may
 21 disclose any information or item designated Confidential only to:

22 (a) the Receiving Party's Outside Counsel of record in this action, as
 23 well as employees of said Counsel to whom it is reasonably necessary to disclose the information
 24 for this litigation and who have signed the "Agreement to Be Bound by Protective Order" that is
 25 attached to this Order as Exhibit A;

26 (b) the officers, directors, and employees (including In-House Counsel)
 27 of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have
 28 signed the "Agreement to Be Bound by Protective Order" (Exhibit A);

(c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this litigation and who have signed the “Agreement to Be Bound by Protective Order” (Exhibit A);

(d) the Court and its personnel;

5 (e) court reporters, their staffs, and Professional Vendors to whom
6 disclosure is reasonably necessary for this litigation and who have signed the "Agreement to Be
7 Bound by Protective Order" (Exhibit A);

8 (f) during their depositions, witnesses in the action to whom disclosure
9 is reasonably necessary and who have signed the "Agreement to Be Bound by Protective Order"
10 (Exhibit A). Pages of transcribed deposition testimony or exhibits to depositions that reveal
11 Protected Material must be separately bound by the court reporter and may not be disclosed to
12 anyone except as permitted under this Stipulated Protective Order; or

13 (g) the author of the document or the original source of the information.

8. PROTECTED MATERIAL SUBPOENAED OR ORDERED
PRODUCED IN OTHER LITIGATION

If a Receiving Party is served with a subpoena or an order issued in other litigation that would compel disclosure of any information or items designated in this action as "Confidential," the Receiving Party must so notify the Designating Party, in writing (by fax, if possible) immediately and in no event more than three court days after receiving the subpoena or order. Such notification must include a copy of the subpoena or court order.

21 The Receiving Party also must promptly inform in writing the party who caused the
22 subpoena or order to issue in the other litigation that some or all the material covered by the
23 subpoena or order is the subject of this Protective Order. In addition, the Receiving Party must
24 deliver a copy of this Stipulated Protective Order promptly to the party in the other action that
25 caused the subpoena or order to issue.

26 The purpose of imposing these duties is to alert the interested parties to the
27 existence of this Protective Order and to afford the Designating Party in this case an opportunity to
28 try to protect its confidentiality interests in the court from which the subpoena or order issued.

1 The Designating Party shall bear the burdens and the expenses of seeking protection in that court
 2 of its confidential material -- and nothing in these provisions should be construed as authorizing or
 3 encouraging a Receiving Party in this action to disobey a lawful directive from another court.

4 9. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

5 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
 6 Protected Material to any person or in any circumstance not authorized under this Stipulated
 7 Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party
 8 of the unauthorized disclosures, (b) use its best efforts to retrieve all copies of the Protected
 9 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
 10 terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and
 11 Agreement to Be Bound" that is attached hereto as Exhibit A.

12 10. FILING PROTECTED MATERIAL

13 Without written permission from the Designating Party or a Court Order secured
 14 after appropriate notice to all interested persons, a Party may not file in the public record in this
 15 action any Protected Material. A Party that seeks to file under seal any Protected Material must
 16 comply with Civil Local Rule 79-5.

17 11. FINAL DISPOSITION

18 Unless otherwise ordered or agreed to in writing by the Producing Party, within
 19 forty-five (45) days after the final termination of this action, each Receiving Party must return all
 20 Protected Material to the Producing Party. As used in this subdivision, "all Protected Material"
 21 includes all copies, abstracts, compilations, summaries or any other form of reproducing or
 22 capturing any of the Protected Material or portions thereof. With permission in writing from the
 23 Designating Party, the Receiving Party may destroy some or all of the Protected Material instead
 24 of returning it. Whether the Protected Material is returned or destroyed, the Receiving Party must
 25 submit a written certification to the Producing Party (and, if not the same person or entity, to the
 26 Designating Party) by the forty-five day deadline confirming that the Protected Material was
 27 returned or destroyed and affirming that the Receiving Party has not retained any copies, abstracts,
 28 compilations, summaries or other forms of reproducing or capturing any of the Protected Material

1 or portions thereof. Notwithstanding this provision, Counsel are entitled to retain an archival copy
2 of all pleadings, motion papers, transcripts, legal memoranda, correspondence or attorney work
3 product, even if such materials contain Protected Material. Any such archival copies that contain
4 or constitute Protected Material remain subject to this Protective Order as set forth in Section 4
5 (DURATION), above.

6 12. MISCELLANEOUS

7 12.1 Right to Further Relief. Nothing in this Order abridges the right of any
8 person to seek its modification by the Court in the future.

9 12.2 Right to Assert Other Objections. By stipulating to the entry of this
10 Protective Order, no Party waives any right it otherwise would have to object to disclosing or
11 producing any information or item on any ground not addressed in this Stipulated Protective
12 Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of
13 the material covered by this Protective Order.

14 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

15 Dated: April ___, 2007

PARISI & HAVENS LLP
David C. Parisi
Susanne Havens Beckman

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By: _____
David C. Parisi

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KAMBER & ASSOCIATES, LLC
Scott A. Kamber

20

Co-Lead Counsel for Plaintiffs

21

Dated: April 5, 2007

SHEARMAN & STERLING LLP
Jeffrey S. Facter
Jiyoun Chung

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By: _____/s/_____
Jeffrey S. Facter

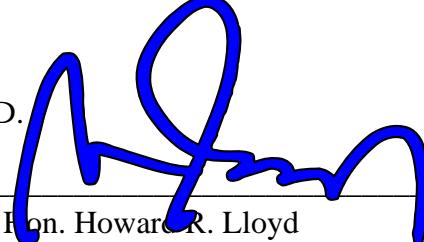
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Attorneys for Defendants ATI Technologies
Inc., ATI Technologies Systems Corp., ATI
Research Silicon Valley Inc., and ATI
Research, Inc.

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED.
2 Dated: April 23, 2007


Hon. Howard R. Lloyd
United States Magistrate Judge

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1 **EXHIBIT A**

2 **ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

3 I, _____ [print or type full name], of
4 _____ [print or type full address],
5 declare under penalty of perjury that I have read in its entirety and understand the Stipulated
6 Protective Order that was issued by the United States District Court for the Northern District of
7 California on _____ in the case of In re ATI Tech. HDCP Litigation, Case No. 5:06-CV-
8 01303 JW HRL. I agree to comply with and to be bound by all the terms of this Stipulated
9 Protective Order and I understand and acknowledge that failure to so comply could expose me to
10 sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in
11 any manner any information or item that is subject to this Stipulated Protective Order to any
12 person or entity except in strict compliance with the provisions of this Order.

13 I further agree to submit to the jurisdiction of the United States District Court for
14 the Northern District of California for the purpose of enforcing the terms of this Stipulated
15 Protective Order, even if such enforcement proceedings occur after termination of this action.

16
17 Date: _____

18 City and State where sworn and signed: _____

19 Printed name: _____

20 Signature: _____

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